

Message Text

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ACTION L-03

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FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC IMMEDIATE 8943

INFO EC COLLECTIVE 74

AMEMBASSY ANKARA IMMEDIATE

AMEMBASSY ATHENS IMMEDIATE

USMISSION USUN

UNCLAS THE HAGUE 4952

E.O. 11652: N/A

TAGS: PFOR, ICJ, GR, TU

SUBJ: GREEK REQUEST TO INTERNATIONAL COURT OF JUSTICE

REF: THE HAGUE 4871

1. ON SEP 11 ICJ HANDED DOWN ADVISORY OPINION ON GREEK APPLICATION FOR THE INDICATION OF INTERIM MEASURES OF PROTECTION. FOLLOWING IS EXTRACT OF OPINION AS ISSUED BY COURT IN PRESS RELEASE. FULL TEXT BEING POUCHED DEPARTMENT FOR L/STEPHEN M. SCHWEBEL.

2. BEGIN TEXT:

TODAY, 11 SEPT 1976, THE INTERNATIONAL COURT OF JUSTICE MADE IN THE AEGEAN SEA CONTINENTAL SHELF CASE AN ORDER FINDING, BY TWELVE VOTES TO ONE, THAT THE CIRCUMSTANCES, AS THEY NOW PRESENT THEMSELVES TO THE COURT, ARE NOT SUCH AS TO REQUIRE THE EXERCISE OF ITS POWER UNDER ARTICLE 41 OF ITS STATUTE TO INDICATE INTERIM MEASURES OF PROTECTION.

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THE COURT WAS COMPOSED AS FOLLOWS: PRESIDENT JIMENEZ DE ARECHAGA;
VICE-PRESIDENT NAGENDRA SINGH; JUDGES FORSTER, GROS, LACHS,
DILLARD, MOROZOV, WALDOCK, RUDA, MOSLER, ELIAS AND TARAZI;
JUDGE AD HOC STASSINOPOULOS.

THE PRESIDENT, THE VICE-PRESIDENT AND JUDGES LACHS, MOROZOV,
URDA, MOSLER, ELIAS AND TARAZI APPENDED SEPARATE OPINIONS TO
THE ORDER OF THE COURT. JUDGE AD HOS STASSINOPOULOS APPENDED
A DISSENTING OPINION.

IN ITS ORDER THE COURT RECALLS THAT ON 10 AUGUST 1976
GREECE INSTITUTED PROCEEDINGS AGAINST TURKEY IN RESPECT OF A
DISPUTE CONCERNING THE AEGEAN SEA CONTINENTAL SHELF. GREECE
REQUESTED THE COURT INTER ALIA TO DECLARE WHAT IS THE COURSE
OF THE BOUNDARY BETWEEN THE PORTIONS OF THE CONTINENTAL SHELF
APPERTAINING RESPECTIVELY TO GREECE AND TURKEY IN THE AREA,
AND TO DECLARE THAT TURKEY IS NOT ENTITLED TO UNDERTAKE
ANY ACTIVITIES ON THE GREEK CONTINENTAL SHELF, WHETHER BY
EXPLORATION, EXPLOITATION, RESEARCH OR OTHERWISE, WITHOUT THE
CONSENT OF GREECE.

ON THE SAME DAY GREECE ALSO REQUESTED THE COURT TO INDICATE
INTERIM MEASURES OF PROTECTION TO THE EFFECT THAT THE GOVERNMENTS
OF BOTH STATES SHOULD: (A) REFRAIN, UNLESS WITH THE CONSENT OF
EACH OTHER AND PENDING THE FINAL JUDGMENT OF THE COURT, FROM
ALL EXPLORATION ACTIVITY OR ANY SCIENTIFIC RESEARCH WITH RESPECT
TO THE AREAS IN THE DISPUTE; (B) REFRAIN FROM TAKING FURTHER
MILITARY MEASURES OR ACTIONS WHICH MAY ENDANGER THEIR
PEACEFUL RELATIONS.

AT PUBLIC HEARINGS ON 25, 26 AND 27 AUGUST 1976 THE COURT
HEARD OBSERVATIONS PRESENTED ON BEHALF OF THE GOVERNMENT OF GREECE
ON ITS REQUEST FOR THE INDICATION OF INTERIM MEASURES OF PROTECTION.
ON 26 AUGUST THE TURKISH GOVERNMENT, WHICH HAD NOT APPOINTED AN
AGENT AND WAS NOT REPRESENTED AT THE HEARINGS, COMMUNICATED TO
THE REGISTRY OF THE COURT CERTAIN WRITTEN OBSERVATIONS IN WHICH
IT SUBMITTED IN PARTICULAR THAT THE COURT HAD NO JURISDICTION
TO ENTERTAIN THE DISPUTE AND SUGGESTED THAT THE REQUEST FOR
INTERIM MEASURES BE DISMISSED AND THE CASE REMOVED FROM THE
LIST.

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IN JUSTIFICATION OF ITS REQUEST FOR INTERIM MEASURES GREECE
ALLEGED: (A) THAT CERTAIN ACTS ON THE PART OF TURKEY (THE GRANTING
OF PETROLEUM EXPLORATION PERMITS, THE EXPLORATIONS OF THE VESSEL
MTA SISMIK I) CONSTITUTE INFRINGEMENTS OF ITS EXCLUSIVE
SOVEREIGN RIGHTS TO THE EXPLORATION AND EXPLOITATION OF ITS
CONTINENTAL SHELF, AND THAT THE BREACH OF THE RIGHT OF A
COASTAL STATE TO EXCLUSIVITY OF KNOWLEDGE OF ITS CONTINENTAL

SHELF CONSTITUTES IRREPARABLE PREJUDICE; (B) THAT THE ACTIVITIES COMPLAINED OF WOULD, IF CONTINUE, AGGRAVATE THE DISPUTE. TURKEY CONTENTED: (A) THAT THESE ACTIVITIES CANNOT BE REGARDED AS INVOLVING ANY PREJUDICE TO THE EXISTENCE OF ANY RIGHTS OF GREECE OVER THE DISPUTED AREA AND THAT, EVEN IF THEY COULD, THERE WOULD BE NO REASON WHY SUCH PREJUDICE COULD NOT BE COMPENSATED; (B) THAT TURKEY HAS NO INTENTION OF TAKING THE INITIATIVE IN THE USE OF FORCE.

SO FAR AS (A) IS CONCERNED, THE COURT, VIEWING THE MATTER IN THE CONTEXT OF ARTICLE 41 OF ITS STATUTE, IS UNABLE TO FIND IN THE ALLEGED BREACH OF GREECE'S RIGHTS SUCH A RISK OF IRREPARABLE PREJUDICE TO RIGHTS IN ISSUE AS MIGHT REQUIRE THE EXERCISE OF THE POWER TO INDICATE INTERIM MEASURES OF PROTECTION. WITH REGARD TO (B) THE COURT CONSIDERS THAT IT IS NOT TO BE PRESUMED THAT EITHER GOVERNMENT WILL FAIL TO HEED ITS OBLIGATIONS UNDER THE UNITED NATIONS CHARTER OR FAIL TO HEED SECURITY COUNCIL RESOLUTION 395(1976) OF 25 AUGUST 1976, WHEREIN THE TWO GOVERNMENTS WERE URGED "TO DO EVERYTHING IN THEIR POWER TO REDUCE THE PRESENT TENSION IN THE AREA" AND CALLED ON "TO RESUME DIRECT NEGOTIATION OVER THEIR DIFFERENCE".

THE COURT OBSERVES, THAT, TO PRONOUNCE ON THE PRESENT REQUEST FOR INTERIM MEASURES, IT WAS NOT CALLED UPON TO DECIDE ANY QUESTION OF ITS JURISDICTION TO ENTERTAIN THE DISPUTE, AND THAT IT PRESENT DECISION IN NO WAY PREJUDGES ANY QUESTION RELATING TO ITS JURISDICTION OR THE MERITS OF THE CASE. IT IS UNABLE, AT THE PRESENT STATE OF THE PROCEEDINGS, TO ACCEDE TO TURKEY'S REQUEST THAT THE CASE BE REMOVED FROM THE LIST, BUT IT WILL BE NECESSARY TO RESOLVE AS THE NEXT STEP THE QUESTION OF ITS JURISDICTION WITH RESPECT TO THE CASE. THE WRITTEN PLEADINGS ARE FIRST TO BE ADDRESSED TO THAT QUESTION AND WILL BE FILED WITHIN TIME LIMITS THE FIXING OF WHICH THE COURT HAS

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RESERVED FOR FURTHER DECISION. END TEXT.
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